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A.No.4873 of 2024

Application No.4873 of 2024
in
C.S.(Comm.Div.) No.261 of 2023

ABDUL QUDDHOSE, J.

This application has been filed by the plaintiff seeking to frame an additional issue.

2. The plaintiff is aggrieved by the framing of third issue, which reads as follows, through the court's order dated 19.06.2024.

(iii) Whether there was a necessity to engage with a Forensic Investigator to identify the probable root cause to fire, as the root cause of fire, origin and spread to different buildings was not clear nor established by the plaintiff?

3. According to the plaintiff, the burden of proof is on the Insurance Company to prove that fire was caused due to human intervention. The same is denied by the defendant in the written statement. As seen from the third issue framed by this Court, which is extracted supra, it would amount to rendering a finding that the plaintiff



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has not established the probable root cause for the fire which resulted in the suit claim. Therefore, issue No.3 framed by this Court on 19.06.2024 has to be re-framed in the following manner:-

Whether the root cause of fire is due to human intervention/external forces?

4. Apart from the aforesaid issue, one more issue has been left out by this Court in its earlier order dated 19.06.2024. Accordingly, by consent of both counsels, the following issue is also framed.

Whether the plaintiff has breached the terms and conditions of the policy, and repudiation of the claim is in order?

5. Insofar as the remaining issues are concerned, namely, Issue Nos.1, 2, 4, 5 and 6, the same are not altered. In terms of the above directions, this application is disposed of.

Post the matter for case management hearing on 18.11.2024.

04.11.2024

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